



1 Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3). A habeas  
2 corpus petition is the correct method for a prisoner to challenge “the very fact or duration of  
3 his confinement,” and where “the relief he seeks is a determination that he is entitled to  
4 immediate release or a speedier release from that imprisonment.” *Preiser v. Rodriguez*, 411  
5 U.S. 475, 489 (1973). In contrast, a civil rights action pursuant to 42 U.S.C. § 1983 or *Bivens*  
6 *v. Six Unknown Named Agents*, 403 U.S. 388 (1971) is the proper method for a prisoner to  
7 challenge the conditions of his confinement. *See McCarthy v. Bronson*, 500 U.S. 136, 141-42  
8 (1991) (“[A] § 1983 action is a proper remedy for a state prisoner who is making a  
9 constitutional challenge to the conditions of his prison life, but not to the fact or length of his  
10 custody.”).

11 Upon review of the Petition, the Court concludes that Petitioner is challenging the  
12 conditions of his confinement and not the “the fact or length of his custody.” *McCarthy*, 500  
13 U.S. at 142. Petitioner has not stated a cognizable habeas corpus claim pursuant to § 2241.


14 Accordingly, the Court **DISMISSES** the case without prejudice and with leave to  
15 amend. If Petitioner wishes to challenge the fact or duration of his confinement, he must, **no**  
16 **later than February 27, 2012**, file a First Amended Habeas Corpus Petition. If Petitioner  
17 wishes to challenge the conditions of prison life, he must:

- 18 (1) file a new civil complaint pursuant to 42 U.S.C. § 1983, and
- 19 (2) either pay the \$350 filing fee or file a motion to proceed in forma pauperis.

20 The Clerk of the Court is directed to mail Petitioner a 28 U.S.C. § 2241 First Amended  
21 Habeas Corpus Petition form, a 42 U.S.C. § 1983 Civil Complaint form, a Motion to Proceed  
22 In Forma Pauperis form, and a copy of this Order.

23 IT IS SO ORDERED.

24 DATED: January 26, 2012

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26 **WILLIAM Q. HAYES**  
27 United States District Judge

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